



City of Carmel

CARMEL PLAN COMMISSION SPECIAL STUDIES COMMITTEE

NOVEMBER 3, 2010
CAUCUS ROOMS, 2nd FLR
CARMEL CITY HALL
ONE CIVIC SQUARE
CARMEL, IN 46032
6:00 PM

Committee Members Present: Jay Dorman, Woody Rider, Sue Westermeier, Ephraim Wilfong

Committee Members Absent: Steve Stromquist

DOCS Staff Present: Director Michael Hollibaugh, Angie Conn; John Molitor, Legal Counsel

Also Present: Ramona Hancock, Plan Commission Secretary

The Special Studies Committee considered the following items:

1. **Docket No. 10100007 ADLS Amend: Touch 'N' Go Collision Center – Signage**

The applicant seeks approval to install a new wall sign. The site is located at 902 3rd Ave. SW and is zoned I-1/Industrial. Filed by Larry Smith, owner.

Present for Petitioner: Larry Smith, owner; business associate, Kevin.

Overview:

- Site sits way back from street & offers low visibility
- Touch “N” Go has been in business approximately 8 years
- Need to modernize signage
- Black/white sign, lighted
- Lighting is background only, not letters
- Letters are black

Dept comments, Angie Conn:

- Site visit made by Rachel Boone
- Sign should be adequate
- Dept recommends approval

Motion: Woody Rider “To approve Docket No. 10100007 ADLS Amend, Touch ‘N’ Go Collision Center Signage as presented to the Committee;” seconded by Ephraim Wilfong, approved 4-0.

2. **Docket No. 10080013 DP: Walnut Creek Drive Extension.**

The applicant seeks development plan approval to extend Walnut Creek Dr. south to 98th St. and relocate

some utilities. The site is located at the northeast corner of 98th St. and Michigan Rd., just south of West Carmel Marketplace. The site is zoned B-3/Business and lies within the Michigan Rd/US 421 Overlay Zone. Filed by Bill Armstrong.

Present for Petitioner: Brian Cross, Civil Site Group Engineers, Bill Armstrong, property owner.

Overview:

- Initial approval for Development Plan in 2000 has expired
- Petitioner is amending the Development Plan
- Request is to extend and connect Walnut Creek Drive into 98th Street
- Curb-cut is right turn only at Michigan Road Curb with pending driveway permit application thru INDOT
- No specific land-user as yet
- Looking at several options to the 2 lots
- No bldg or arch design as yet – only infrastructure
- Utility power lines will be re-located, drainage re-worked
- Surrounding property owned/controlled by Casto Group
- Petitioner is requesting City of Carmel, thru Plan Commission, to exercise their discretion to approve this development petition to make connection to Walnut Creek Drive a reality
- Bill Armstrong is willing to complete Walnut Creek Drive which was not done at the time West Carmel Marketplace was developed
- Petitioner is requesting a favorable recommendation to the Plan Commission

Dept report, Angie Conn

- Dept fully recommends forwarding to full Commission with favorable recommendation
- Good planning dictates extending the frontage road (Walnut Creek Drive)

Committee questions/comments

- Why didn't Casto agree to grant the access easement? (Petitioner's Response: Casto sent Mary Solada as their representative who indicated there were concerns with cross access easement agreements, maintenance, insurance, etc.—valid reasons except they do not apply in this case for the reason that one of the parcels is block H of West Carmel Marketplace which is under ownership of Mr. Armstrong. The petitioner is incorporating an existing lot that Mr. Armstrong has ownership rights and association responsibilities to West Carmel Marketplace thru maintenance, common area, insurance, etc. They—Casto—have also asked for some type of restitution for the connection to have access.)
- Can the Plan Commission force this connection? (DOCS Director Mike Hollibaugh's response: We can require them to bring pavement to the end of their property, but cannot force them to connect. It was not required at the time West Carmel Marketplace was developed)
- How can we not request connectivity that the Ordinance encourages? (Response, John Molitor, Legal Counsel: Unfortunately, the Plan Commission did not require it at the time this was developed.)
- Association Fees? (Mr. Armstrong's response—he is obligated to pay fees but has never been sent an invoice)
- Were the two lots sold to Mr. Armstrong by Casto? (Mr. Armstrong's Response: The two residual lots were owned by Duke—Duke sold to Mr. Armstrong)

- The common area block is owned by Casto – Mr. Armstrong has not purchased right-of-way
- Mr. Armstrong comments: The road extension would enhance the value of the real estate for which Casto is owed money; it is not the concern of maintenance fees that troubles them. Does the discretion of the Plan Commission end after a development has been approved and constructed? In other words: If there is a provision in the Ordinance that says the Plan Commission may, “at its discretion” require it, why does the discretion necessarily terminate after original approval is given and why does it not carry on until now?
- Committee: If we approve this, and they (Duke) knew that we wanted this access road behind it, then Duke sold off this property, are they not selling the rights to access that? (Response, John Molitor: There is no black/white answer.)
- What if we approve this tonight—forward to the Commission with a positive recommendation? (Response, John Molitor: You can approve it—move it forward to the Plan Commission—authorize the road to be built up to the property line which would leave a small gray wedge to the north of the property line.)
- Wouldn’t that almost force Casto to fill it in? (Response, John Molitor: The City could probably force them to fill it in, but the City may not be able to force them to open it.)
- When West Carmel Marketplace was approved, the two lots were not part of the approval
- Is there not something in the intent that this would eventually be extended? (Response, John Molitor: It probably was the intent, but it was not articulated. It was not anticipated that this would become an issue. The Development Plan showed a road to the property line, but there was no commitment required.
- Was there a cross-access easement required for future connection? (Response, John Molitor: There was a stub street shown on the development plan, but there is no record of discussion of an extension of the stub street)
- The gray triangle..... should have been completed by Duke

At public hearing in 2004 for the rezone of West Carmel Marketplace, a letter was sent to Jon Dobosiewicz from Mr. Armstrong asking specifically that approval for the frontage road extend to 98th Street—that it needed to happen.

Mr. Armstrong said it was difficult for him to continue without this question being resolved. Mr. Armstrong would like the Committee to consider approval of the project, with the condition that the Carmel Plan Commission exercise the authority it legally has within the Overlay Zone Ordinances. The language within the Carmel Ordinance specifically states that “Frontage Road Common Entrances shared by several businesses and developments shall be encouraged as need be required at the discretion of the Commission.”

Jay Dorman formulated the following thoughts for a motion:

We approve the extension and Armstrong’s ability to complete the triangle, and since Duke and the current owner should have completed the triangle, the pro-rata share of any construction, engineering, legal work, street location of any utility be pro-rata, billed back to the current owner, Casto, at

Armstrong's discretion. In addition, if there are potential common area concerns on the upper triangle portion along the road, then maybe those two can off-set each other. Furthermore, Armstrong will be taking care of all of the maintenance or whatever may be required from the top of the triangle forward, and Casto would take care of everything else.

John Molitor said he would prefer discussion at Executive Session; exact wording can be finalized at that time."

You would think that if one had a stub street, one would want that stub extended as it is the intent of Carmel in residential or commercial development, that it makes sense for the health, safety, welfare of future and existing residents and tenants, lessees, shoppers of the Carmel West Marketplace, and in general for the entire core of the overlay, that the extension of such makes good sense for the health, safety, and welfare of the City.

Committee:

Can't we push this with the Michigan Road Corridor Overlay Zone and what it states? At least at the Committee's discretion, we are requiring it. Can't we do that?

We can schedule an Executive Session immediately following the Plan Commission meeting on November 16. The wording needs to be correct if we are going to put that into an approval.

John Molitor: We could finalize the wording at Executive Session following the Commission meeting.

Jay: The petitioner should feel comfortable that the Committee is in full support of the extension and will do everything in its power to help facilitate that.

By Unanimous Consent of the Committee, Docket No. 10080013 DP, Walnut Creek Drive Extension was forwarded to the Plan Commission with a 4-0 positive recommendation, **subject to anything that might develop at an Executive Session.**

3. **Docket No. 10040014 OA: Patch Ordinance VIII (City Council Ordinance Z-543-10)**
The applicant seeks to amend *Chapter 3: Definitions; Chapter 23B: US Highway 31 Corridor Overlay Zone; Chapter 23C: US Highway 421-Michigan Road Corridor Overlay Zone; Chapter 23D: Old Town District Overlay Zone; Chapter 23E: Home Place District Overlay Zone; Chapter 23F: Carmel Dr.-Range Line Rd. Overlay Zone; Chapter 24: Development Plan and Architectural Design, Exterior Lighting, Landscaping & Signage, Chapter 25: Additional Use Regulations; Chapter 25.07: Signs; Chapter 27: Additional Parking & Loading Regulations and Chapter 29: Administration of the Carmel Zoning Ordinance.* Filed by Carmel Dept. of Community Services on behalf of the Carmel Plan Commission.

Note: Items 3 and 4 were heard together.

4. **Docket No. 10050001 OA: Appendix A Amendment (City Council Ordinance Z-543-10)**
The applicant seeks to amend *Appendix A: Schedule of Uses* of the Zoning Ordinance. Filed by the Carmel Department of Community Services on behalf of the Carmel Plan Commission.

Present for Petitioner: Adrienne Keeling, Department of Community Services

Overview:

- Patch VIII and Appendix A Amendment were combined at Council and will stay together
- Amendments discussed by Council were conceptual and denied
- Plan Commission was asked to make suggestions and recommendations

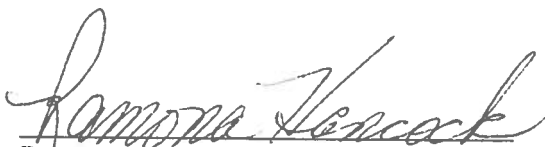
- Suggestions/Amendments proposed are highlighted in yellow
- Patch VIII and Appendix A Amendment highlighted items were reviewed and discussed
- Concern was competition with Farmers Market and vendors operating food stands in spring & summer
- Definition of food stands simplifies and clarifies
- Chickens: Already existing in Ordinance is definition of residential kennel and commercial kennel; hens can be allowed as a small animal; still a maximum of 3 chickens allowed, roosters still prohibited in residential; 5 acres would permit a rooster and would qualify as a farm
- Language added requiring certificates, licenses, and permits to be displayed on seasonal outdoor stands
- Regarding the Table on page 5 – holiday plants/flowers felt to be vague – language revised for seasonal and/or holiday plants and flowers – Woody Rider recommended not changing the language—keeping the same
- Food Stands: all licenses, certificates, and permits from government agencies are to be displayed—non-incorporated children’s stands such as lemonade stands shall be exempt from temporary use permits
- Concern regarding easy-up canopy tents – limited to 8 feet in height – height, signage, and accessory equipment not to exceed 10 feet (not 10 square feet)
- Parks & Rec Impact Fee Credits – Parks Board at issue with continuing with ZIP – fee would apply if projects outside zip – would clarify when appropriate for Parks Board or BPW (the issuing credit body) regarding impact fee – clarification only

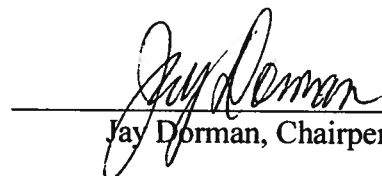
Appendix A Amendment

- Page A-3 – addition of tattoo studio use under retail & service – propose to make them permitted in zoning districts designated “P” which mirrors the general service category. The proposal would exclude tattoo studios in the Keystone, Meridian, and Michigan Road corridors which are seen as economic development areas and allow them in Old Town, Home Place, and Carmel Drive/Range Line Road Overlay Zones.

Motion: Sue Westermeier “To forward Dockets 10040014 OA, Patch Ordinance VIII and 10050001 OA, Appendix A Amendment to the full Commission with a positive recommendation with the following changes: Section 25.2403—adding the word “outdoor” to seasonal sales; Item 25.2405—keeping the original wording of plants, flowers, and holiday items in the chart/graph; Item 25.2705—adding the words “and signage” after equipment; Schedule of Uses, under Tattoo Studio—keep everything that is permitted except remove the exclusions from Old Town, Home Place, and Carmel Drive/Range Line Road and leave the exclusion for the other three intact (Keystone, Meridian, and Michigan Road.” The motion was seconded by Woody Rider, approved 4-0.

Adjourned at 7:00


Ramona Hancock, Secretary


Jay Dorman, Chairperson pro tem

